IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

-

WRIT PETITION NO : 17203 of 2000

Between:

K.V.S.S. Sambhu Prasad, S/o. late Gunneswara Rao,
R/o. Palakole, West Godavari District.

..... PETITIONER

AND

1 The Senior Accounts Officer,
Operation Circle, Transco,
Eluru, West Godavari District.
2 Superintendent Engineer, A.P. Transco,
West Godavari District at Eluru.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus, or any other appropriate Writ, order or direction, declaring the action of the 1st Respondent in issuing the impugned notice in letter No.SAO/O/ELR/HT/D.No.83/2000, dt.10-5-2000 received by the petitioner on 12-9-2000 asking the petitioner to pay the alleged dues an amount of Rs.13,41,949/- in respect of the arrears of A.P. Bagasse Products Limited as illegal, null and void and further directing the respondents to drop all further proceedings pursuant to the impugned notice dt.10-5-2000 including disconnection of service connections bearing Nos.7, 8, 1466, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 7305, and 2069 of Palakole, West Godavari District.

Counsel for the Petitioner: MR. CH.DHANAMJAYA

Counsel for Respondents: MR. K.N.JWALA

The Court made the following:

ORDER:

This writ petition is filed questioning the impugned notice dated 10-05-2000 in Letter No.SAO/O/ELR/HT/D.No.83/2000 issued by the first respondent-Senior Accounts Officer, Operation Circle, A.P. Transco, Eluru, West Godavari District. In the said notice, there was a demand of Rs.13,41,949/- from the petitioner on account of arrears from M/s. A.P. Bagasse Products Limited, Chintaparru Village, Palacole Mandal, West Godavari District (for short, 'the Company'). While demanding the said amount, it was indicated that in case of failure to pay the said amount, Service Connections in the name of the petitioner would be disconnected.

It is the case of the petitioner that merely because he is the Managing Director of the Company, he is not personally liable for payment of arrears due on account of consumption of electric power supply given to the Company, namely, M/s. A.P. Bagasse Products Limited. It is the case of the petitioner that the consumer M/s. A.P. Bagasse Products Limited being a Company, the said amount cannot be recovered from him personally. The respondents have issued the impugned notice with reference to Condition No.42.3 of Terms and Conditions of Supply and provision under Section 49 of the Indian Electricity Act.

This Court, by order dated 15-09-2000 in W.P.M.P.No.21871 of 2000, passed interim orders directing the respondents not to disconnect the power supply to the Service Connections, which are in the name of the petitioner.

In the counter affidavit filed on behalf of respondents, it is stated that as the petitioner was Managing Director of the Company, he is liable to pay the arrears of consumption charges, which are due from the Company.

Though in the impugned demand notice, reference is made to Condition No.42-3 of Terms and Conditions of Supply and Section 49 of the Indian Electricity Act, but no opportunity was given to the petitioner before making such a demand. Further, there is no adjudication by the respondents on this aspect whether such an amount, which is due from the Company, can be collected from the petitioner or not.

In that view of the matter, the petitioner is permitted to make a representation before the respondents in this regard pursuant to the notice dated 10-05-2000 issued in Letter No.SAO/O/ELR/HT/ D.No.83/2000, indicating his objections within a period of four weeks from the date of receipt of a copy of this order. On such filing

representation, the respondents shall consider whether as per the terms and conditions of Supply and the provisions of the Act, such an amount can be collected from the petitioner individually or not. Considering his objections, the respondents shall consider his claim and pass appropriate orders. Till appropriate orders are communicated, there shall be no disconnection of the power supply to the Service Connections, which are in the name of the petitioner individually.

Subject to the above directions, the writ petition is disposed of. No order as to costs.

_____

R.SUBHASH REDDY, J

23rd June, 2005.

Ak

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Senior Accounts Officer, Operation Circle, A.P. Transco,

Eluru, West Godavari District.

2. The Superintending Engineer, A.P. Transco, Eluru,

West Godavari District.

3. Two CD copies.